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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

In re T.D., a Person Coming Under the  
Juvenile Court Law.

SOLANO COUNTY DEPARTMENT OF  
HEALTH AND SOCIAL SERVICES,

Plaintiff and Respondent,

v.

R.D.,

Defendant and Appellant.

A133134

(Solano County  
Super. Ct. No. J38485-7)

R.D. (Father), father of T.D., K.D., and Z.W., appeals from an order denying his request for additional reunification services. He contends the juvenile court erred in finding he had been provided with reasonable services. We disagree, and therefore affirm the order.

**FACTUAL AND PROCEDURAL BACKGROUND**

***Mother's Previous Appeal***

We recently resolved C.W.'s (Mother) appeal in a nonpublished opinion (Dec. 23, 2011, A131150). There, Mother challenged the juvenile court's dispositional order removing her children from her custody and placing them in the home of an

approved relative or in foster care. We affirmed the order.<sup>1</sup> The essential facts from the proceedings underlying Mother’s appeal, which are relevant to Father’s current appeal, are as follows.

On April 16, 2008, the Solano County Health & Social Services Department (the Department) filed an original petition on behalf of then 11-year-old T.D., 9-year-old K.D. and 18-month-old Z.W., alleging Mother had a substantial history of methamphetamine use that interfered with her ability to provide regular and appropriate care, custody and support for her children. She admitted she had relapsed and had used methamphetamine “six times in the last six months,” including the night before Z.W. was hospitalized for “ingesting a caustic liquid [that] contained sodium hydroxide, a chemical use[d] to manufacture methamphetamine. . . .” Mother had “left the liquid soap in a Dixie cup in the motel room and within the child’s reach. [Z.W.] was being watched by his eleven year old sister [T.D.] at the time of the incident.” Father, who was T.D. and K.D.’s alleged father, also had a substance abuse problem. Father admitted he had served several prison sentences for felony domestic violence against Mother and that the children had witnessed some of the violent incidents. He continued to verbally and emotionally abuse Mother and also physically and emotionally abused K.D. The Department social worker “recommended to the father that he undergo a mental health assessment for issues of anger and the fact that he displays symptoms of Anti-Social Personality [D]isorder.” The social worker also “recommended that he undergo a substance abuse assessment and participate in parenting.” The juvenile court detained the children and found Father was K.D. and T.D.’s presumed and legal father and Z.W.’s alleged father. At a further detention hearing, the court returned T.D. and K.D. to Mother’s care under certain conditions.

According to a jurisdiction report dated May 29, 2008, T.D. and K.D. were living with Mother and Z.W. remained hospitalized. The report set forth the family’s prior

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<sup>1</sup> To obtain context, maintain consistency and economize judicial resources, we take judicial notice of our prior opinion and the record in the prior matter. (Evid. Code, § 451, subd. (a); see *In re Luke L.* (1996) 44 Cal.App.4th 670, 674, fn. 3.)

child welfare history, which included allegations beginning in January 2001 for a total of 13 referrals for neglect, abuse, substantial risk, and caretaker absence, among other things. Some of the substantiated allegations against Father included incidents in which Father punched K.D. in the stomach and emotionally abused him, had the children sleep with him outside in the park because he was homeless, left the children in the park while he went to a nearby bar, verbally abused Mother, threw a cup of soda on her, and spat in her face in front of the children. During a May 8, 2008, visit with his children, Father threatened to hit K.D. in front of everyone when K.D. said he was tired and wanted to call Mother.

In a disposition report dated June 16, 2008, the Department recommended that Mother receive family maintenance services as to T.D. and K.D. and family reunification services as to Z.W. The Department recommended that Father receive family reunification services for all three children, with the option of allowing him to waive services as to Z.W. The report stated, “due to his outbursts in the presence of the children, [Father] should engage in and complete anger management and counseling services.” The juvenile court sustained the petition as amended, adjudged T.D. and K.D. dependents, and placed them in Mother’s custody with family maintenance services.

According to an interim review report dated August 18, 2008, Mother was receiving family maintenance services as to T.D. and K.D. and family reunification services as to Z.W., who had been released from the hospital on June 19, 2008, and was living in a confidential licensed foster home. Z.W. had received internal damage as a result of the incident in which he ingested a caustic liquid and had also had a “thalamic stroke” that resulted in a “global brain injury.” Father had been arrested for and charged with cruelty to a child, possession of drug paraphernalia and battery, and was in jail. He tested positive for marijuana on April 28, 2008.

In a September 26, 2008, six month status review report, the Department requested continued family maintenance services to Mother as to T.D. and K.D., who

were in her custody, and family reunification services to Mother as to Z.W. The Department requested family reunification services for Father as to all three children, as he had established paternity as to Z.W. Father had been incarcerated for a probation violation and was released on August 26, 2008. His living environment was unstable. At the six month status review hearing, the juvenile court ordered as part of Father's case plan that he receive supervised visitation and engage in counseling to address "physical abuse, parenting skills, family therapy, substance abuse, domestic violence, personal functioning and in-home training or parenting and communication."

In a 12-month status review report dated March 28, 2009, the Department recommended terminating jurisdiction as to all three children and granting sole physical custody to Mother and shared legal custody to Mother and Father. The children were living with Mother, who had moved from the motel to a three bedroom home where the children could walk to and from school. She was receiving treatment and had tested negative for illegal substances, with the exception of a positive marijuana test on two occasions. Father continued to "live a transient lifestyle." He was visiting his children regularly. He had begun substance abuse treatment and had made arrangements to attend an anger management class. He continued to "struggle with control and lack there[of] when it comes to his wife and children," and this had "hindered his ability to move forward and get his life in order." On April 14, 2009, the juvenile court adopted the Department's recommendations and terminated jurisdiction over all three children.

On October 13, 2010, the Department filed a second dependency petition alleging that Mother had subjected all three children to an unsafe environment by using illegal drugs in the home. According to the detention report, the Department received a report that Mother was in jail after having been arrested for child endangerment and possession of methamphetamine and drug paraphernalia. The arresting officer said Mother was "clearly under the influence of drugs." Mother reported that Father was "homeless somewhere in Fairfield." The juvenile court detained the children, and after a contested jurisdictional hearing, sustained the petition as amended.

According to a jurisdiction/disposition report dated November 18, 2010, the children were in foster care. The Department stated that reunification “would be premature at this time” due to the high risk of further abuse and/or neglect caused by Mother’s failure to address her substance abuse issues. The children were also at risk if placed with Father, as he did not have stable housing and had unaddressed anger issues and suspected substance abuse issues. Father acknowledged he was not in compliance with the terms and conditions of his probation and was concerned he might be remanded into custody. He believed foster care was “the best place for [the children]” because he was not in a position to care for them. He said he did not intend to comply with services recommended by the Department, including anger management and parenting classes. He believed his primary issues were “his need for employment and housing,” which he wished to address on his own. After a contested dispositional hearing, the juvenile court found that continued detention of the children was necessary and ordered them placed in the approved home of a relative or in foster care. The court ordered Father to participate in counseling programs to address issues of “physical abuse, parenting skills, family therapy, substance abuse, anger management, domestic violence, personal functioning and in-home training or parenting and communication.” Mother appealed from the dispositional order, and as noted, we affirmed.

### ***Father’s appeal***

In a six month status review report dated June 9, 2011, the Department recommended continuing services to Mother, who was living with Z.W. and had maintained stable housing and employment since February 2011 and was living a drug-free lifestyle. She visited with T.D. and K.D. regularly and was involved in their lives.

The Department recommended that family reunification services for Father be terminated. Father had moved to Idaho and had not provided information to the Department regarding his “living circumstances, employment status and ability to maintain suitable and stable housing.” He had “been consistent with visitation until late April of 2011” and most of the visits had gone well, but he had repeatedly refused to

comply with drug testing despite numerous written and verbal requests. On March 21, 2011, during an office visit, Father informed the social worker “that he was high, was smoking marijuana, and that it had been in his system for the past 30 days.” In February 2011, he “walked out of his Healthy Partnership Program,” which “consisted of individual counseling, group counseling, random drug testing,” and Narcotics Anonymous (NA) and Alcoholics Anonymous (AA) meetings. The Department social worker informed Father that he could be reassessed and considered for out-patient substance abuse treatment and that he could be re-referred to the Healthy Partnership Program, but that he would have to “respectfully and thoroughly engage in services as expected.” The social worker instructed Father in writing to contact the behavioral health assessment team in order to be reassessed, and asked him to contact a different individual regarding parenting classes. The social worker also asked Father to submit proof of attendance at NA/AA meetings. Father had not complied with any of these instructions and requests.

On April 14, 2011, Father arrived at the visitation center intoxicated for a visit with Z.W. and harassed and made derogatory comments towards Mother in Z.W.’s presence. Two security guards escorted Mother and Z.W. out of the building due to Father’s aggressive behavior. On April 18, 2011, Father left a voice mail message for the social worker, stating he was leaving for Idaho and that he was “on a bus” on his way there and “would need to put in a change of address.” On April 22, 2011, Father went to the confidential address of T.D. and K.D.’s care provider unannounced, without approval of the Department or the care provider, to say good-bye to T.D. and K.D. The care provider reported the incident to the police.

The Department stated in its report that it had provided various services to Father, including supervised visits, monthly bus passes and gas cards, drug testing, and referrals to and contact with providers of various services including behavioral assessment, outpatient substance abuse treatment, and parenting services. Father was not in compliance with his case plan objective, which included showing his ability and

willingness to have custody of his children, staying sober and living free from alcohol dependency, staying free from illegal drugs, complying with all required drug tests, and obtaining and maintaining a stable and suitable residence for himself and his children. On June 1, 2011, after obtaining Father's address and telephone number from Father's attorney, the Department social worker called Father to give him the telephone numbers of various service providers near his address in Idaho, including rehabilitation, counseling, substance abuse treatment, and anger management services, and parenting classes. The social worker informed him of the times and dates of the parenting class and told him that a request for payment for the parenting class would be submitted to the Department for approval. As the social worker began to speak to Father further about his case plan and other concerns, Father hung up the phone.

At the six-month review hearing, the parties stated they had reached a stipulation regarding some of the issues that were set for hearing. They agreed to place T.D. in Mother's home, with Mother enrolling in and completing a parenting class. They agreed to provide the Department with discretion to place K.D. in Mother's care with three court days' notice to all parties. The parties stated they had not reached a resolution as to whether Father should continue receiving reunification services, and whether a restraining order should be re-issued against Father protecting Mother.

Social worker La Toshia Lacour testified she had been working with the family and had observed "difficult behavior from [Father]." Father had been consistent with visiting the children and generally had good visits with them, but on one occasion, he harassed Mother and made threatening statements towards her in the presence of Z.W. On another occasion, he arrived intoxicated for a supervised visit and had to be escorted out of the building by security guards. During another visit, Father refused to stop making derogatory comments about Mother and the visit had to be ended early. On another occasion, Father showed up at the children's care provider's home unannounced.

Lacour further testified that Father told her in late April that he was moving to Idaho. He told her that living in Fairfield was “very difficult for him and he needed to go to a better place.” She had not seen him since then. When Father returned from Idaho, he asked for a drug test and tested negative for drugs. However, Father had not presented anything to the Department to indicate he had participated in any parenting or AA classes in Idaho. Father informed her that the services were not available to him in Idaho, but she had sent him a letter informing him of the various services she had located and had informed him the Department was willing to pay for those services. Lacour was aware that there were criminal proceedings pending against Father. He had not informed her whether those criminal issues had been resolved.

Lacour testified Mother was concerned that Father could contact her freely now that the restraining order protecting her from him had expired. Father had previously violated restraining orders that had been issued against him, and Lacour believed a restraining order should be in place to ensure Mother’s safety and to prevent exposing the children to any further incidents.

Lacour further testified that she did not believe there was any possibility that the children would reunify with Father within the next review period if the court were to extend services to him. Father “ha[d] not been able to maintain consistent equilibrium in his dealings with [Mother] and his three children[.]” The Department was expecting Mother to reunify with the children, as she had been participating in services and had interacted with the Department and made herself available to discuss issues relating to the children. In contrast, Father had not been consistently available to discuss issues with the Department. He had not made substantive progress in addressing any of the components of his case plan, which consisted of substance abuse, parenting, and mental health. She believed Father should continue to have supervised visits with his children at the discretion of the Department.

The juvenile court found Father had failed to participate in and make substantive progress in his court ordered treatment plan and that there was no substantial probability



the children would be able to safely return to his home. The court terminated reunification services to Father and ordered supervised visitation for him.

### DISCUSSION

Father contends the order terminating services must be reversed because there was insufficient evidence that he was provided with reasonable services. Assuming, without deciding, that Father preserved this issue for appeal by arguing for additional reunification services, we conclude there was substantial evidence supporting the juvenile court's finding.

“[W]ith regard to the sufficiency of reunification services, our sole task on review is to determine whether the record discloses substantial evidence which supports the juvenile court's finding that reasonable services were provided or offered.” (*Angela S. v. Superior Court* (1995) 36 Cal.App.4th 758, 762.) Under the substantial evidence standard of review, an appellate court must review the evidence in the light most favorable to the trial court's order. (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969.) In providing services, what is important is that a good faith effort to assess and address the problem through services be exercised. (*In re John B.* (1984) 159 Cal.App.3d 268, 275.) “The adequacy of reunification plans and the reasonableness of the [social services] efforts are judged according to the circumstances of each case. (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.)

Here, Father complains that services were inadequate because his case plan “should have included a psychological evaluation and assessment so that a mental health professional could develop for him a therapeutic plan to moderate his negative or angry behaviors.” The record shows, however, that the Department offered reasonable services to Father, and that it was his failure to participate in the services offered—rather than the nature of the services—that prevented placement of his children in his care.

Beginning in 2008, when the children first became dependents of the juvenile court, the Department offered various services to Father that were geared towards

addressing the issues preventing him from being able to adequately care for the children, including substance abuse, anger management, parenting, and obtaining housing. In May 2008, the Department “recommended to the father that he undergo a mental health assessment for issues of anger and the fact that he displays symptoms of Anti-Social Personality disorder” and “that he undergo a substance abuse assessment and participate in parenting.” However, shortly thereafter, Father was arrested for and charged with cruelty to a child, possession of drug paraphernalia and battery, and remained in jail until August 26, 2008. During the second dependency, the Department again offered services to Father but he stated he did not intend to participate in any services recommended by the Department because he believed foster care was “the best place for [the children]” at the time and that his primary issues were his need for employment and housing, which he wanted to address on his own. In February 2011, he voluntarily left the Healthy Partnership Program to which he had been referred and ignored numerous efforts by the Department to ensure his participation in an outpatient substance abuse treatment program, parenting classes, and NA/AA meetings. In April 2011, after Father abruptly moved to Idaho, the Department obtained his new address from his attorney and provided Father with the information necessary for him to participate in services in Idaho, including rehabilitation, counseling, substance abuse treatment, and anger management services, and parenting classes. However, when the social worker contacted Father and attempted to discuss these and other issues, Father hung up the phone, making it clear he did not wish to work with the Department in addressing his issues.

Reunification services are not inadequate simply because the parent is unwilling or indifferent. (*In re Jonathan R.* (1989) 211 Cal.App.3d 1214, 1220.) “The requirement that reunification services be made available to help a parent overcome [the] problems which led to the dependency of his or her minor children is not a requirement that a social worker take the parent by the hand and escort him or her to and through classes or counseling sessions. A parent whose children have been

adjudged dependents of the juvenile court is on notice of the conduct requiring such state intervention.” (*In re Michael S.* (1987) 188 Cal.App.3d 1448, 1463, fn. 5; see also *Angela S. v. Superior Court*, *supra*, 36 Cal.App.4th at p. 762 [the parent’s emotional problems do not excuse failure to participate in services as some capacity to achieve the reunification goals is presumed].) Thus, here, the Department was not required to take Father “by the hand and escort him . . . through classes or counseling sessions,” (see *In re Michael S.*, *supra*, 188 Cal.App.3d at p. 1463), when he was unwilling to address his issues. Moreover, “[i]n almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.) Accordingly, the fact that the Department could have done more to address Father’s anger management issues by ordering a mental health assessment did not render its services inadequate. The record, as a whole, supports the juvenile court’s finding that reasonable services were provided to Father.

#### **DISPOSITION**

The order is affirmed.

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McGuiness, P.J.

We concur:

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Siggins, J.

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Jenkins, J.